

March 14, 2019

Mr. Devin Leary  
Human & Rohde, Inc.  
512 Virginia Avenue  
Towson, MD 21286

Re: Gerber Property at 11964 Park Heights Avenue  
Forest Buffer Variance  
Tracking #02-19-2942

Dear Mr. Leary:

A request for a variance from the Baltimore County Code, Article 33, Title 3, a Law for the Protection of Water Quality, Streams, Wetlands and Floodplains (i.e. Forest Buffer Law), was received by the Department of Environmental Protection and Sustainability (EPS) on February 28, 2019. The applicant is seeking to construct a new single-family dwelling in the same location of a previously razed single-family dwelling, as well as establish a new septic reserve area for the new dwelling. If granted, the variance would allow the applicant to reduce the Forest Buffer Easement (FBE) associated with a stream and its headwater wetland area by 7,385 square feet (sf). This reduction would allow more space for the proposed septic reserve area as well as provide a reasonable backyard.

The property is approximately 1.6 acres with a first order Use-III stream flowing from a spring house and into the North Branch of the Jones Falls. An area of non-tidal wetlands associated with the stream and spring house begins in the forested area toward the northeastern corner of the property and extends into the lawn area at the base of the slope at the north end of the property. The lot is triangular in shape creating a practical difficulty in meeting the required zoning setbacks and septic reserve area as well as providing useable yard area. A single family dwelling that has been razed previously existed on the property, along with a driveway running along the eastern property line. The variance application states that reduction of the FBE is required in order to provide enough space for the septic reserve area and a usable backyard.

This Department has reviewed your request and has determined that a practical difficulty exists in fully complying with Section 33-3-111 as described above. Furthermore, impacts to water quality can be adequately minimized, given that no direct impact to streams or wetlands is proposed and the reduction of the FBE is proposed in mostly unforested areas. The FBE will be protected by an orange safety fence during construction and clearly marked with protective signage that will remain after construction. Additionally, the applicant proposes to provide mitigation for the loss of stream system buffer through the planting of 7,385 sf of the FBE that is currently maintained as lawn.

Therefore, we will grant this request in accordance with Section 33-3-106 (a)(1) of the Baltimore County Code, with the following conditions:

1. Please adjust the proposed reduced FBE boundary so that it extends straight across the entire property and runs parallel to the northern property line instead of curving northward to intersect with the northern property line. Include the additional area of FBE resulting from this adjustment in the proposed planting area. See Enclosure 1 for reference.
2. Surveyed limits of the FBE shall be clearly marked onsite at 100-foot intervals and significant turning points with permanent "Forest Buffer-Do Not Disturb" signs to facilitate identification of buffer limits by all involved parties. These signs, which are available from private sign contractors, shall be installed prior to building permit approval. See Enclosure 2 for information regarding these signs.
3. Mitigation for the reduction of the FBE to allow space for the septic reserve area and a usable rear yard shall be provided via the planting of approximately 9,700 sf of the FBE that is currently lawn as indicated in condition 1 above. A Forest Buffer Protection Plan (FBPP) detailing the mitigation and including a cost estimate for its implementation must be submitted to EPS staff and approved prior to issuance of any permit.
4. A FBPP security equal to 110% of the EPS-approved cost estimate shall be posted via an Environmental Agreement prior to approval of any permit. The security shall be no less than \$2,425 (i.e. \$0.25/sf).
5. The FBE and its Declaration of Protective Covenants shall be recorded in Baltimore County Land Records via the Exhibit A process prior to any permit approval.
6. The following note shall appear on all subsequent plans and plats submitted for this project:

"A variance was granted on March 14, 2019 by the Baltimore County Department of Environmental Protection and Sustainability from the Law for the Protection of Water Quality, Streams, Wetlands, and Floodplains. The Forest Buffer Easement and its setback shown hereon reflect the fact that this variance was granted. Conditions were placed on this variance to reduce impacts to water quality including the planting of the unforested Forest Buffer Easement."

It is the intent of this Department to approve this variance subject to the above conditions. Any changes to site layout will require submittal of revised plans and a new variance request.

Please have the party responsible for meeting the conditions of this variance sign the statement on the following page and return a signed copy of this letter to this Department within 21 calendar days. Failure to return a signed copy may render this approval null and void, or may result in delays in the processing of plans for this project.

Mr. Devin Leary  
Gerber Property  
Forest Buffer Variance  
March 14, 2019  
Page 3

If you have any questions regarding this correspondence, please contact Ms. Libby Errickson at (410) 887-3980.

Sincerely yours,

David V. Lykens  
Acting Director

DVL/lbe

Enclosures (2)

- c. Mr. Bruce Doak, Bruce E. Doak Consulting LLC  
Ms. Elizabeth Gerber and Mr. Adam Gerber

I/we agree to the above conditions to bring my/our property into compliance with Law for the Protection of Water Quality, Streams, Wetlands and Floodplains.

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Owner's Signature

Date

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Printed Name